

REMARKS

Claims 1-20 and 22-25 are currently pending in this application. Claims 1-20 and 22-24 have been amended. Applicant has carefully reviewed the Office Action and respectfully requests reconsideration of the claims in view of the remarks presented below.

Double Patenting

Claims 1-20 and 22-25 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-25 of copending application serial no. 10/782,684. Applicant prefers to hold this matter in abeyance pending notification of allowable subject matter in the present application.

Claim Rejections Under 35 U.S.C. §103

Claims 1-25 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,908,392 (Wilson) in view of Legal Precedent.

Independent claims 1, 23, 24 and 25 relate to methods and systems that control the recording of data such that no data is recorded until the detection of predetermined recording triggers indicative an impending cardiac arrhythmia, thus avoiding unnecessary recording of data, while at the same time ensuring the preservation of data leading up to a cardiac arrhythmia. Such systems and methods are distinct from the prior art, which either do not begin recording until an actual arrhythmia is detected, or continuously record data, regardless of the absence or presence of an arrhythmia. See e.g., paragraphs [0006] and [0007] of specification.

Claim 1 recites, in part, a processor operative to control the recording of diagnostic data such that no data is recorded in a temporary memory until the detection of predetermined recording triggers indicative of an impending cardiac arrhythmia; and adaptively modify the recording triggers so as to reduce the likelihood of any unnecessary recording of diagnostic data in the temporary memory. Claims 23, 24 and 25 recite similar subject matter.

Wilson discloses a system that continuously records data into temporary buffers without reference to any type of criteria. See column 8, lines 49-54. Upon meeting a particular criteria, data from the temporary buffers is transferred to a snap-shot buffer for long-term storage. See column 10, lines 16-25 and lines 41-44. Thus the Wilson system continuously records data.

Applicant submits that Wilson fails to disclose the combinations of elements and features recited in independent claims 1, 23, 24 and 25, including controlling the recording of diagnostic data such that no data is recorded in a temporary memory until the detection of predetermined recording triggers indicative of an impending cardiac arrhythmia. Accordingly, Applicant requests reconsideration of the §102 rejections of claims 1, 23, 24 and 25.

Applicant further submits that, by virtue of the incorporation of subject matter recited in their respective independent base claim, each of dependent claims 2-20 and 22 is also novel over Wilson. Aside from the foregoing basis of novelty, Applicant believes that dependent claims recite additional novel subject matter. For example, regarding claim 3, Wilson continuously stores data in a temporary buffer, thus it does not receive initial trigger parameters for triggering the recording of diagnostic data in a temporary memory; monitor cardiac rhythm; and selectively control the recording of diagnostic data in the temporary memory based on the cardiac rhythm and the trigger parameters. Regarding claim 9, because Wilson continuously stores data in a temporary buffer without regard to any impending arrhythmia criteria, it does not evaluate the likelihood of an impending cardiac arrhythmia; and control the recording of diagnostic data based upon such an evaluation. Regarding claim 22, because Wilson continuously stores data in a temporary buffer without regard to any impending arrhythmia criteria, it does not activate the recording of diagnostic data in a temporary memory upon the detection of predetermined recording triggers indicative of an impending cardiac arrhythmia; and then transfer data from the temporary memory to a

long-term memory upon subsequent confirmation that such cardiac arrhythmia actually occurred.

CONCLUSION

Applicant has made an earnest and bona fide effort to clarify the issues before the Examiner and to place this case in condition for allowance. Therefore, allowance of Applicant's claims 1-20 and 22-25 is believed to be in order.

Respectfully submitted,

3 MAY 2007
Date

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